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EXAMINER

MENDOZA, JUNIOR O

ART UNIT

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2423

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/537,749	Applicant(s) LOCKRIDGE ET AL.	
	Examiner JUNIOR O. MENDOZA	Art Unit 2423	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-14 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-14 and 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1, 8 and 14 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. **Claims 1, 8 and 14** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 1, 8 and 14, the applicant claims a "where the least one program is provided using a first conditional access system when the at least one program is offered at the first price and where the at least one program is provided using the first conditional access system and a second conditional access system when the at least one program is offered at the second price", however, such elements have not been disclosed on the specification.

Although page 6 lines 30-36 discloses layering an additional conditional access system on top of the underlying conditional access system, e.g. from a satellite provider;

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there is no explicit disclosure which links or reasonably suggests applying either a layered or non-layered conditional access system to the content depending on the price at which the content is being resold. Therefore, the examiner finds that the feature of providing "[the program] using a first conditional access system when the program is offered at a first price" and providing "[the program] using the first conditional access system and a second conditional access system when the program is offered at the second price" is not described in the specification.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1 and 3 – 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Stoel et al. (Patent No 5,905,942) in view of Hendricks et al. (Patent No 7,207,055) further in view of Perlman (Pub No US 2006/0294540). Hereinafter referenced as Stoel, Hendricks and Perlman, respectively.

Regarding **claim 1**, Stoel discloses a system for providing data in a multiple dwelling facility (See abstract and figure 1), the system comprising:

a headend unit that received data stream from a program provider via a content delivery medium, the data stream comprising a plurality of programs (Col. 10 lines 49-51 also exhibited on fig 3A; headend 12 receives cable, PPV programming and off-air programming received by means of a satellite dish 86 or antenna 92);

and a multiple dwelling unit network that is adapted to receive at least a portion of the data stream from the headend unit and provide at least a subset of the plurality of programs to individual users in the multiple dwelling facility (Col. 1 lines 66-67 and col. 2 lines 1-6 also exhibited on fig 1; system 10 is installed in a multiple dwelling unit such as an apartment complex, where each subscriber unit 16 receives content from the headend 12);

wherein the headend unit is adapted to offer at least one of the plurality of programs to individual users in the multiple dwelling facility (Col. 1 lines 66-67 and col. 2 lines 1-6 figure 1).

However, it is noted that Stoel fails to explicitly disclose that a headend unit is adapted to offer programs to users at a first price set by a program provider or at a second price set by the headend unit.

Nevertheless, in a similar field of endeavor Hendricks discloses that a headend unit is adapted to offer programs to users at a first price set by a program provider or at a second price set by the headend unit (Col. 29 line 20-31, col. 7 lines 65-67, col. 8 lines 1-11; price category 506 contains price set at the national distribution site source for distributed content, where each local headend 208 is allowed the capability to charge a different amount for said content should that be desired).

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stoel by specifically providing the elements mentioned above, as taught by Hendricks, for the purpose of allowing headend providers to dynamically charge a content fee which fits the cost of living for each geographical region, this way increasing the chances for increased content consumption.

However, it is noted that Stoel and Hendricks are silent to explicitly disclose that the at least one program is provided using a first conditional access system **or** the at least one program is provided using the first conditional access system and a second conditional access system.

Nevertheless, in a similar field of endeavor Perlman discloses that the at least one program is provided using a first conditional access system **or** the at least one program is provided using the first conditional access system and a second conditional access system (Paragraphs [0076] [0079] [0104]; simulcasting content using either a first standard encryption scheme, i.e. DES, or a second encryption scheme).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stoel and Hendricks by specifically providing the elements mentioned above, as taught by Perlman, for the purpose of protecting the content being distributed from being illegally accessed by undesired receivers.

Regarding **claim 3**, Stoel, Hendricks and Perlman disclose the system set forth in claim 1; moreover, Stoel discloses that the multiple dwelling unit network comprises a switch that distributes the at least a subset of the plurality of programs to users in individual dwelling units within the multiple dwelling facility (Col. 53-67 figure 1; content is supplied from headend 12 to each individual subscriber unit 16 through an interdiction field unit 28, which selectively jams or allows channels to the subscriber unit 16, in other words the interdiction field unit 28 switches on/off the right for a customer to get some channels based on a control data command received from the head end 12).

Regarding **claim 4**, Stoel, Hendricks and Perlman disclose the system set forth in claim 1; moreover, Stoel discloses that the multiple dwelling unit network comprises a set top box in each of the individual dwelling units within the multiple dwelling facility (Subscriber unit 16 as exhibited on fig 1),

each of the set top boxes being adapted to block a specific program or permit access to the specific program depending on whether a user has met at least one predetermined condition (Col. 53-67 figure 1; content is supplied from headend 12 to each individual subscriber unit 16 through an interdiction field unit 28, which selectively jams or allows channels to the subscriber unit 16, in other words the interdiction field unit 28 switches on/off the right for a customer to get some channels based on a control data command received from the head end 12. Moreover, each subscriber terminal has a non-volatile stored address which is associated with the subscriber in the subscriber

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database, col. 4 lines 42-56; where a user needs to enter a PIN in order to have access to content, col. 5 lines 28-58)

Regarding **claim 5**, Stoel, Hendricks and Perlman disclose the system set forth in claim 1; moreover, Stoel discloses that at least one of the plurality of programs comprises a premium video channel (Col. 2 lines 7-14 fig 1A; headend 12 may provide RF signals including premium tier programming, such as HBO, Cinemax, etc).

Regarding **claim 6**, Stoel, Hendricks and Perlman disclose the system set forth in claim 1; moreover, Stoel discloses that at least one of the plurality of programs comprises a pay per view video program (Col. 2 lines 7-14 figures 1A and 3; headend 12 may provide RF signals including event pay-per-view programming).

Regarding **claim 7**, Stoel, Hendricks and Perlman disclose the system set forth in claim 1; moreover, Stoel discloses the headend unit is configured to interface with a billing system that is configured to create a billing record for each of a plurality of users in the multiple dwelling facility (Col. 4 lines 42-56As a part of signing on with the cable system operator, the subscriber will provide billing information including name, address, and telephone number. That subscriber information is stored in a subscriber database. Subscriber terminal has a non-volatile stored address which is associated with the subscriber in the subscriber database; moreover, after confirmation of the PIN is completed, headend 12 creates a billing record for the purchase, col. 5 lines 59-64).

Regarding **claims 8, 9, 10 and 12**, Stoel, Hendricks and Perlman disclose all the limitations of claims 8, 9, 10 and 12; therefore, claims 8, 9, 10 and 12 are rejected for the same reasons stated in claims 1, 6, 5 and 4, respectively.

Regarding **claim 11**, Stoel, Hendricks and Perlman disclose the method set forth in claim 8, moreover, Stoel discloses that the at least one predetermined condition comprises selecting at least one of the plurality of programs for display using an on-screen programming guide (Col. 3 lines 46-57 also exhibited on fig 2; the subscriber selects content options by viewing interactive menus on the screen of the television 44 and navigates it by pressing the keys of control remote 46).

Regarding **claim 13**, Stoel, Hendricks and Perlman disclose the method set forth in claim 8; however, Stoel fails to explicitly disclose the act of providing an on screen display in place of at least one of the plurality of programs.

Nevertheless, in a similar field of endeavor Hendricks discloses the act of providing an on screen display in place of at least one of the plurality of programs (Figures 19 - 21).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stoel by specifically providing the elements mentioned above, as taught by Hendricks, for the purpose of providing an electronic

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menu which provides information about the shows available to the user in an efficient and attractive manner.

6. **Claims 14 and 16 – 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Stoel, Hendricks and Perlman further in view of Vigarie (Patent No US 6,307,939). Hereinafter referenced as Vigarie.

Regarding **claim 14**, Stoel discloses a system for providing data in a multiple dwelling facility (See abstract), the system comprising:

means for receiving a data stream from a program provider via a content delivery medium, the data stream comprising a plurality of programs (Col. 10 lines 49-51 also exhibited on fig 3A; headend 12 receives cable, PPV programming and off-air programming received by means of a satellite dish 86 or antenna 92),

the means for receiving the data stream being adapted to offer at least one of the plurality of programs to individual users in the multiple dwelling facility (Col. 1 lines 66-67 and col. 2 lines 1-6 also exhibited on fig 1; system 10 is installed in a multiple dwelling unit such as an apartment complex, where each subscriber unit 16 receives content from the headend 12);

and means for providing at least a subset of the plurality of programs to individual users in the multiple dwelling facility (Col. 1 lines 66-67 and col. 2 lines 1-6 figure 1).

However, it is noted that Stoel fails to explicitly disclose offering at least one program either at a first price set by the program provider or at a second price set by the means for receiving the data stream.

Nevertheless, in a similar field of endeavor Hendricks discloses offering at least one program either at a first price set by the program provider or at a second price set by the means for receiving the data stream (Col. 29 line 20-31, col. 7 lines 65-67, col. 8 lines 1-11; price category 506 contains price set at the national distribution site source for distributed content, where each local headend 208 is allowed the capability to charge a different amount for said content should that be desired).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stoel by specifically providing the elements mentioned above, as taught by Hendricks, for the purpose of allowing headend providers to dynamically charge a content fee which fits the cost of living for each geographical region, this way increasing the chances for increased content consumption.

However, it is noted that Stoel and Hendricks are silent to explicitly disclose that that at least one program is provided using a first conditional access system and where the at least one program is provided using another conditional access system.

Nevertheless, in a similar field of endeavor Perlman discloses that at least one program is provided using a first conditional access system and where the at least one program is provided using another conditional access system (Paragraphs [0076] [0079]

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[0104]; simulcasting content using a first standard encryption scheme, i.e. DES, and a second encryption scheme).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stoel and Hendricks by specifically providing the elements mentioned above, as taught by Perlman, for the purpose of protecting the content being distributed from being illegally accessed by undesired receivers.

However, it is noted that Stoel, Hendricks and Perlman are silent to explicitly disclose that the another conditional access system is a first conditional access system and a second conditional access system.

Nevertheless, in a similar field of endeavor Vigarie discloses that the another conditional access system is a first conditional access system (conditional access A) and a second conditional access (conditional access B) system (Col. 7 lines 19-38; layer encrypting a received encrypted content, i.e. conditional access A, with a complementary conditional access, i.e. conditional access B).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stoel, Hendricks and Perlman by specifically providing the elements mentioned above, as taught by Vigarie, for the predictable result of allowing the introduction of further protection layers which allows conditional access content to be able to be decoded and viewed only by their intended receivers.

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Regarding **claims 16, 17, 18, 19 and 20**, Stoel, Hendricks and Perlman disclose all the limitations of claims 16, 17, 18, 19 and 20; therefore, claims, 16, 17, 18, 19 and 20 are rejected for the same reasons stated in claims 3, 4, 5, 6, and 7, respectively.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JUNIOR O. MENDOZA whose telephone number is (571)270-3573. The examiner can normally be reached on Monday - Friday 9am - 5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Koenig can be reached on (571)272-7296. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Junior O Mendoza
Examiner
Art Unit 2423

/J. O. M./
June 29, 2010

/Andrew Y Koenig/
Supervisory Patent Examiner, Art Unit 2423